

# **EXHIBIT D**

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
OFFICE OF THE ZONING ADMINISTRATOR**



December 22, 2016

David Avitabile  
Goulston & Storrs  
1999 K Street, 5<sup>th</sup> Floor  
Washington, DC 20006

Re: 1701-1711 14<sup>th</sup> Street NW (Square 239)

Dear Mr. Avitabile:

The purpose of this email is to confirm our discussion regarding the proposed redevelopment of the Whitman-Walker property at 1701 – 1711 14th Street NW (Square 239, Lots 2051-2053).

The property is located in the ARTS-3 Zone District. The applicants intend to redevelop the existing Whitman-Walker uses into a mixed use building with approximately 75-80 dwelling units, approximately 16,000 square feet of retail use, approximately 29,000 square feet of private office space, and approximately 34,000 square feet to be used by Whitman-Walker Health.

**Applicability of the 2016 Zoning Regulations**

The Project received concept approval from the Historic Preservation Review Board in June 2016. However, the Applicant intends to file for review under the 2016 Zoning Regulations. As we discussed, the vesting provisions of Subtitle A, Section 102 are voluntary – a project that is eligible may choose to vest under the 1958 Regulations, or it may elect to proceed under the 2016 Zoning Regulations. Accordingly, this Project may proceed under the 2016 Regulations even though it received concept approval from HPRB prior to September 6, 2016.

**Uses, Parking, and Loading**

As we discussed, Whitman-Walker Health is a non-profit, community-serving institution that provides medical and other resources to the Washington DC area, with a wide variety of activities that include medical and dental care, legal services, research, case management, and community health outreach. At the Property, as shown on the attached floor plans, Whitman-Walker's on-site uses will include a ground-floor community center (which will be public facing), and second floor office space for administrative offices, research, legal services, and outreach administration (which constitute a mix of public-facing and non-public facing uses).

As we discussed, the public-facing uses on the ground and second story are “institutional” uses under the 2016 Regulations because they include client-interacting uses. The second-story office space that is not public-facing is considered an “office” use because it generally does not include such client interaction. Floor plans demarcating the anticipated “public-facing” space within the Whitman-Walker component of the project are attached.

We also discussed the provision regarding the exemption of initial floor area for parking calculations. Subtitle C, Section 701.6. I conclude that this provision applies to multiple types of establishments within a single use category (i.e. multiple retail establishments), so that each retail establishment doesn’t get a separate deduction. The provision is not intended to require the pro-ration of the initial exempt floor area across different types of uses (office, retail, residential) within a mixed-use building. That is, each type of use (residential, retail, institutional, and office) gets the full deduction set forth in the table of parking requirements.

Therefore, for purposes of the parking and loading requirements, I conclude that the Project consists of the following uses, parking, and loading requirements, based on the information provided:

<u>Use</u>	<u>Units/Area</u>	<u>Parking</u>	<u>Loading</u>
Residential (1 per 3 units in excess of 4 units)	75-80 du	25 spaces	1 berth, 1 space
Retail (1.33 per 1000 SF in excess of 3000 SF)	16,000 SF	17 spaces	1 berth
WWH Institutional (1.67 per 1000 SF in excess of 5000 SF)	13,000 SF	13 spaces	None
WWH Office (0.5 per 1000 SF in excess of 3000 SF)	21,000	24 spaces	1 berth, 1 space
Commercial Office (0.5 per 1000 SF in excess of 3000 SF)	28,999*		
SUBTOTAL		79 spaces	
Reduction for TOD		50%	
<b>REQUIREMENT</b>		<b>40 spaces</b>	<b>1 berth, 1 space</b>

\* Total office will remain below 50,000 SF

#### **ARTS Bonus Density and Inclusionary Zoning Bonus Density**

The Project will contain new gross floor area with at least 10 new residential dwelling units, so the Project would trigger the IZ requirements and incentives for affordable housing under Subtitle C, Chapter 10. Accordingly, pursuant to Subtitle K, Section 801.1, the maximum FAR permitted for the Project is 4.8 FAR. (You have indicated that the total

residential FAR of the Project would be under 3.0 FAR and, accordingly, you do not seek additional bonus density under Subtitle K, Section 802.3.)

Subtitle K, Section 802.1(a) permits bonus density generated by the provision of certain preferred uses within the Project to be used to either increase the maximum permitted overall FAR or to increase the maximum permitted nonresidential FAR. Section 802.1(c) states that ARTS bonus density cannot be used until a project has met the setback requirements and used "all" of the bonus density available through IZ. However, this provision is intended to prohibit the use of ARTS bonus density to increase the overall density of a project under Section 802.3 before first using the IZ bonus, since the amount of the IZ bonus that is utilized determines the amount of the IZ setback that is required.

Here, the Project will likely have a FAR of under 4.8 and will therefore not use all of the bonus density available under IZ. The Project will otherwise meet the IZ setback requirements, and it will not use bonus density under Section 802.3. The Project may have a nonresidential density that exceeds the 2.5 FAR limit, and would like to use ARTS bonus density to exceed the 2.5 FAR maximum for nonresidential density. I conclude that Section 802.1(c) only precludes the use of ARTS bonus density to increase the total maximum permitted FAR of the Project when all of the IZ bonus has not been used.

### **Inclusionary Zoning**

As designed, the Project will likely trigger an affordable housing setback requirement based on 50% of the utilized bonus density, rather than 8% of the residential gross floor area. I confirmed that, for purposes of the Certificate of Inclusionary Zoning Compliance [CIZC], the applicants will only be required to set aside net residential floor area based on the application of the building's efficiency factor to the setback requirement.

### **ARTS Design Requirements**

Section 810.1(b) requires 75% of the streetwall of a "new building" to be constructed out to the street lot line. The Project includes the incorporation of existing historic buildings at 1701 and 1711 14th Street. Therefore, I conclude that it is not a "new building" and, accordingly, this provision does not apply.

Section 810.1(c)(2) requires entrances to be located 40 feet, on average. I conclude the angled corner entrance at 14th and R Streets may be counted as one of these entrances.

Please let me know if you have any questions.

Sincerely,



Matthew Le Grant  
Zoning Administrator

Attachment: WWH Plans and Zoning Analysis 8-8-16

File: Det Let re 1701-11 14<sup>th</sup> St NW to Avitabile 12-22-16